

REMARKS

35 USC §112

Claims 1-43 are rejected under 35 USC §112, first paragraph. Although the Applicant would like to respond to this rejection, the Examiner has not articulated the rejection in the Office Action. The first sentence states “because the specification, while being enabled for the broadly defined “constituent”...” and there is no conclusion. The Applicant contends that any response may address issues that the Examiner did not intend to address, and therefore, this rejection cannot be fully and properly addressed until the Examiner clarifies this rejection.

The Applicant respectfully requests that the Examiner either contact the undersigned attorney-of-record to discuss or issue a second non-final Office Action specifically addressing this rejection.

DOUBLE PATENTING

Claim 42 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No.: 10/716584. In addition, claims 1-43 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No.: 10/716584. The Applicant respectfully disagrees.

Claim 21 of the present application is a method where fibers are selected that have dissimilar melting points. The first fiber constituent, the second fiber constituent and the at least one gelling agent are mixed such that there is sufficient viscosity and sufficient melt strength in the composition so that it can be spun into a fiber and such that the first melting point and the second melting point in the fiber are substantially similar to their original values before mixing. This method is significant in that despite the fact that the gelling agent is mixing the first fiber constituent and the second fiber constituent, their individual melting points remain intact during and after the method.

Claim 1 of US Application No.: 10/716584 recites a pre-fiber gel composition, which comprises at least one amide-based polymer and at least one lactam gelling agent. The method of producing the pre-fiber gel composition is shown in claim 13 of that application. It should be noted that in this method, the melting points of the at least one amide-based compound are not specifically recited, but instead the at least one lactam gelling agent should be mixed with the at least one amide-based polymer so that the gel composition has sufficient viscosity and sufficient cohesiveness.

It would not be obvious to one of ordinary skill in the art that claims 1 and 13 of the 10/716584 Application are the same as those of the present application.

35 USC §102

Claims 1, 2, 9 and 14 are rejected under 35 USC §102(b) as being anticipated by both Richardson and Debus. The Applicant disagrees, especially in view of the amendments presented herein.

The Applicant would like to first confirm that the Examiner is stating that the present application is rejected as being anticipated by either US 5047459 or US 2002-099136, given that anticipation requires that all of the provisions of the current claims be found in one reference only and not a combination of references. "Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundsciber Corp. v. United States*, 360 F.2d 954, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)). Clarification is required by the Examiner in this matter.

With respect to the substantive rejection, claim 1 recites:

"A pre-fiber composition, comprising:

a first fiber constituent having a first melting point;

a second fiber constituent having a second melting point; and

a gelling agent that solvates at least one of the first fiber constituent or the second fiber constituent, wherein the gelling agent significantly reduces co-polymerization of either of the constituents in the composition."

Claim 20 recites:

"A fiber, comprising:

at least two amide-based polymers, each having a melting point, wherein the melting point of one amide-based polymer is dissimilar to the melting point of a second amide-based polymer; and

a gelling agent that is compatible with at least one of the amide-based polymers,

wherein the fiber comprises two differentiable melting points that are substantially similar to the melting points of each of the amide-based polymers.

Claim 21 recites:

“A method of producing a pre-fiber composition, comprising:

providing a first fiber constituent having a first melting point;

providing a second fiber constituent having a second melting point, wherein the first melting point and the second melting point are dissimilar;

providing at least one gelling agent that is compatible with at least one of the fiber constituents; and

mixing the first fiber constituent, the second fiber constituent and the at least one gelling agent such that there is sufficient viscosity and sufficient melt strength in the composition so that it can be spun into a fiber and such that the first melting point and the second melting point in the fiber are substantially similar to their original values before mixing.”

In the Examiner's rejection, the Examiner does not reject claims 1, 20 or 21 and therefore, by definition, the independent claims of the present application must be allowable. Claims 3-19 and 23-43 contain all of the provisions of claims 1, 20 or 21 respectively, and if these independent claims are allowable, then claims 3-19 and 23-43 must be allowable. See MPEP §608.01n.

To address the substantive issues of the Examiner's rejection, none of the cited references (US 5047459, US 2002-099136, GB 2274109, US 4745143 or GB 1476997) teach all of the claimed elements of the independent claims of the present application. "Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundsciber Corp. v. United States*, 360 F.2d 954, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)) Further, the prior art reference must disclose each element of the claimed invention "**arranged as in the claim**". *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)).

None of these references teach a pre-fiber composition, comprising: a first fiber constituent having a first melting point; a second fiber constituent having a second melting point; and a gelling agent that solvates at least one of the first fiber constituent or the second fiber constituent, **wherein the gelling agent significantly reduces co-polymerization of either of the constituents in the composition**. (emphasis added). In addition, none of the references alone teach that the fiber or pre-fiber composition of claims 20 or 21 have two distinct and differentiable melting points after formation.

Therefore, both substantively and procedurally, claims 1, 20 and 21 are allowable as not being anticipated by the cited references (US 5047459, US 2002-099136, GB 2274109, US 4745143 or GB 1476997), and thus, claims 2-19 and 22-43 are allowable as being dependent on allowable independent claims.

Honeywell Docket No. H0005274 - 4580
Buchalter Docket No.: H9940-0105

REQUEST FOR ALLOWANCE

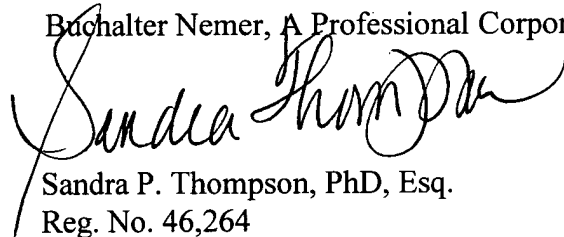
Claims 1-43 are pending in this application, and the Applicant respectfully requests that the Examiner reconsider the claims in light of the arguments presented and allow all pending claims.

Respectfully submitted,

Buchalter Nemer, A Professional Corporation

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By:



Sandra P. Thompson, PhD, Esq.

Reg. No. 46,264

E-mail: sthompson@buchalter.com

Direct Line: 949-224-6282

ATTORNEYS FOR APPLICANT(S):

Buchalter Nemer, A Professional Corporation
18400 Von Karman Ave., Suite 800
Irvine, CA 92612
Fax: 949-224-6203